

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 271

June 20, 1995, 5:36 p.m.
Page S-8675 Temp. Record

NATIONAL HIGHWAY SYSTEM/Ending Seatbelt-Helmet Mandates

SUBJECT: National Highway System Designation Act of 1995 . . . S. 440. Smith amendment No. 1437.

ACTION: AMENDMENT REJECTED, 44-53

SYNOPSIS: As reported, S. 440, the National Highway System Designation Act of 1995, will designate the National Highway System in accordance with the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Failure to enact the bill by September 30, 1995, will result in all States losing their National Highway System and Interstate Maintenance funding. **The Smith amendment** would strike section 153 of the Intermodal Surface Transportation Efficiency Act (ISTEA). That section sanctions States that do not adopt mandatory seat belt laws and motorcycle helmet laws by requiring them to transfer a portion of their annual transportation fund allocations to safety programs. In 1995, the percent that a non-complying State must transfer is 1.5 percent. In 1996 and beyond, 3 percent must be transferred.

Those favoring the amendment contended:

The Smith amendment would do away with the Federal penalties on States that do not have mandatory seatbelt and motorcycle helmet laws. Those penalties are totally unjustified. They are harmful to the States, they are not necessary to increase driving safety and, most importantly, they should not be imposed because the Federal Government has no right to legislate in this area.

Under section 153 of ISTEA, any State that does not enact mandatory seatbelt and motorcycle helmet laws is subject to substantial penalties. That section first took effect this year. At present, two States--New Hampshire and Maine--do not have mandatory seatbelt laws. Accordingly, they were required to spend 1.5 percent of the highway and bridge repair funds to which they were entitled by formula on safety programs instead. These two States already have successful, well-funded safety programs, but they have enormous unmet needs for bridge and road repairs. Those 28 States that did not have mandatory helmet laws received a similar, 1.5 percent punishment. They, too, have enormous unmet needs for bridge and road repairs, and many of them also already have well-funded safety programs. Next year, the penalties will double to 3 percent. Thus, the first indisputable effect of this ISTEA requirement is

(See other side)

YEAS (44)			NAYS (53)			NOT VOTING (3)	
Republicans (39 or 74%)		Democrats (5 or 11%)	Republicans (14 or 26%)		Democrats (39 or 89%)	Republicans (1)	Democrats (2)
Abraham	Lott	Feingold	Bond	Akaka	Heflin	Coats- ²	Inouye- ²
Ashcroft	Lugar	Graham	Chafee	Baucus	Hollings		Murray- ^{2AY}
Bennett	Mack	Leahy	Cohen	Biden	Johnston		
Brown	McCain	Nunn	Coverdell	Bingaman	Kennedy		
Burns	McConnell	Robb	D'Amato	Boxer	Kerrey		
Campbell	Murkowski		DeWine	Bradley	Kerry		
Cochran	Nickles		Domenici	Breaux	Kohl		
Craig	Packwood		Faircloth	Bryan	Lautenberg		
Dole	Pressler		Frist	Bumpers	Levin		
Gramm	Roth		Gorton	Byrd	Lieberman		
Grams	Santorum		Hatfield	Conrad	Mikulski		
Grassley	Shelby		Hutchison	Daschle	Moseley-Braun		
Gregg	Simpson		Jeffords	Dodd	Moynihan		
Hatch	Smith		Warner	Dorgan	Pell		
Helms	Snowe			Exon	Pryor		
Inhofe	Specter			Feinstein	Reid		
Kassebaum	Stevens			Ford	Rockefeller		
Kempthorne	Thomas			Glenn	Sarbanes		
Kyl	Thompson			Harkin	Simon		
	Thurmond				Wellstone		

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

that it forces States to divert money from needed road repairs to unneeded safety programs. During the course of this debate, no Senator has denied this fact.

Some Senators have argued against our next contention, though, which is that this mandate is not necessarily the best way to increase driving safety. For seatbelts, it is pretty well accepted that wearing them contributes to safety. However, it is not so clear that mandating their use is the best way to increase driver safety. Both New Hampshire and Maine, which do not have seatbelt laws, have extensive driver education and training programs. The New Hampshire program, which emphasizes seatbelt use, has resulted in the voluntary use rate rising above 50 percent, which is not too far from the national average of 66 percent. More importantly, though, these two States are among the States with the best highway safety records in the Nation, even though other rural States, on average, have twice the average rate of fatalities per vehicle mile travelled. Maine, in fact, has the second-best safety record in the country, even though it only has a 35-percent use rate for seatbelts. Seatbelt use is not an end in itself; it is a means to an end--safety. If that end is achieved, why should a State be punished for failing to use the particular means that is prescribed by the Federal Government?

The requirement for motorcycle helmet use is even more problematic, because it is not at all settled that the benefits of helmets outweigh their risks. The very limited protection provided, the loss of peripheral vision, and the false sense of security that encourages riders to take risks are among the dangers that come with helmet use. Further, it is abundantly clear that those States that have extensive motorcycle safety programs, including both States with and without mandatory helmet laws, have the best motorcycle safety records. The net benefit of helmets is questionable; but the net benefit of safety programs has been proven. It is thus illogical for the Federal Government to try and pressure the States into adopting mandatory helmet laws (see vote No. 274 for additional debate on motorcycle helmet laws).

Most importantly, regardless of whether seatbelt or helmet laws are advisable, it is wrong for the Federal Government to get involved. Under our Federal system of Government, this type of regulation of individual behavior is a police function which should be exercised by the States. Some Senators have made the argument that this issue has become federalized because Medicare and Medicaid often have to pick up the medical bills for people whose injuries are due to their failure to wear seatbelts or motorcycle helmets. We find this argument rather novel and extremely dangerous. Even if it were possible to prove statistically that people who do not wear seatbelts or helmets and who are injured are more likely to become public burdens than are other accident victims, it will never be shown that their injuries place a large strain on either Medicare or Medicaid. Both those Federal programs provide medical treatment to people who need care primarily for other reasons. Often, that treatment is needed because of an individual's behavior. For example, people who eat too much or who eat greasy foods develop heart disease. Teeth rot and diabetes are aggravated by sugar consumption. Elderly people slip on the steps and break their hips. Should we, therefore, regulate everyone's caloric intake, prescribe fitness regimens, and make anyone over the age of 60 live in a single-level home? These steps would save a lot more money for Medicaid and Medicare, both of which primarily serve elderly Americans, than would making outlaw granny bikers wear motorcycle helmets. We understand that there is certainly some sentiment in the Federal Government for more laws to regulate personal behavior. For instance, a few years ago one Federal agency issued a ban on serving runny eggs, though the public outcry forced it to retract its ban. We simply do not agree with this type of Federal regulation. We do not want to sacrifice our personal freedoms to lower Federal health care costs.

The States are more than capable of establishing their own highway safety standards. They devise their own drivers' tests, their own drunk driving laws, and their own traffic rules--they can also certainly decide for themselves if they want to have mandatory helmet and seatbelt laws. This issue should be decided by the States, not the Federal Government. We therefore strongly support the adoption of the Smith amendment.

Those opposing the amendment contended:

Argument 1:

The Federal Government has a right and responsibility to condition Federal highway funds to the States based on their willingness to adopt mandatory seatbelt and motorcycle helmet laws. We strongly support the current Federal law that makes any State that does not have such mandates transfer a portion of its highway funds to safety programs. Those Senators who say that this is a States' rights issue are wrong. This issue is a matter of health and safety, and the States and the Federal Government share responsibility in protecting the health and safety of Americans. The Federal Government especially needs to pressure States to adopt motorcycle helmet laws, because without Federal pressure State legislatures will not have enough political power to act. Other reasons why this Federal law is clearly appropriate include that it deals with a matter of interstate commerce and that many accident victims receive medical treatment from Federal medical programs. Perhaps the most important reason for supporting the Federal law, though, is that it is effective in pressuring States to impose these mandates, and these mandates save lives. The evidence that wearing seatbelts and wearing motorcycle helmets increases driving safety is irrefutable.

Our colleagues are correct that State legislatures have a duty to defend the interests of their citizens. However, the Congress, which is also elected by the citizens of the States, shares in that duty. We do not hear our colleagues questioning the Federal

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21-year-old drinking age limit, nor do we hear them questioning any of the existing Federal car safety standards. The health and safety of American citizens is a Federal issue every bit as much as it is a State issue.

The value of this dual system of protection is especially evident with the issue of motorcycle helmets. Motorcyclists are very vocal in their opposition to mandatory helmet laws, and they will vote en bloc against any State legislator who disagrees. State elections do not have as large turnouts as do Federal elections, so motorcyclists, through active political participation, are able to exert undo influence. Though in poll after poll most Americans have stated that they favor mandatory helmet laws, many State legislatures have been coerced into opposing them by this very vocal minority. Members of Congress are less subject to this influence because they are elected by a broader electoral base. Therefore, it is necessary for Congress to act in this matter.

Congress should also act because motor vehicles move in interstate commerce. Americans continuously drive across State lines, and the volume of interstate commercial traffic is enormous. Given these facts, it is important to try and have some uniformity in driving rules from State to State, particularly when those rules are regarding safety. Americans moving from one State to another should not be put at risk by the unsafe driving laws of another State.

A third justification for having a Federal mandate on this issue is that Federal costs are involved. In particular, the Federal medical care costs for treating the head injuries of motorcyclists who had accidents while not wearing helmets are enormous. States should not be permitted to allow reckless personal behavior by their citizens and then expect the citizens of other States, through the Federal Government, to pick up the tab.

A slew of studies by the National Highway Traffic Safety Administration, the States, the medical community, consumer safety groups, the Centers for Disease Control, and the General Accounting Office have all reached the same conclusion: mandatory seatbelt and helmet use laws save lives. The evidence is simply overwhelming. Over the past 10 years, seatbelts have saved over 60,000 lives and prevented 1.3 million serious injuries. If everyone used a seatbelt, an additional 14,000 lives and billions of dollars could be saved every year. If everyone wore a motorcycle helmet, an additional 800 lives could be saved each year. In the early 1980's, before safety belt laws were enacted, only 11 percent of Americans wore them. That rate is now 66 percent. That increased use has been accompanied by a decline in fatal and serious traffic injuries. Similarly, when States have enacted motorcycle helmet laws accident fatalities have decreased, and when States have repealed such laws accident fatalities have increased. The correlations, in our opinion, are too strong to deny.

For us, there is no question that the Federal Government has a right to impose requirements in this area. Further, there is absolutely no question that there is a need for such requirements. Accordingly, we urge the rejection of the Smith amendment.

Argument 2:

We favor mandatory seatbelt laws but oppose mandatory helmet laws. We agree that the benefit of wearing a motorcycle helmet is questionable, and we also point out that even if it is beneficial, it is none of the Government's business if one is worn. An individual who wishes to take the risk because they enjoy riding without a helmet has every right to do so. No one else is hurt if that individual is then injured or killed. The argument on the indirect societal costs is unpersuasive. People also increase their risk of injury or death if they ride in cars without helmets, or if they ski without helmets, if they bicycle without helmets, or even if they take showers without helmets. In every case, society may be called upon to pay for the injuries. Seatbelt laws, though, are different. A drivers' failure to wear a seatbelt can result in the death or injury of other passengers in his car or in other cars because of his inability to control his vehicle. Wearing a seatbelt is not just a personal issue; it involves the safety of others. Further, 48 States have already adopted mandatory seatbelt laws, so the issue is pretty well settled. Therefore, we intend to vote against the Smith amendment, and in favor of the Snow/Campbell amendment to follow.